STATUTORY INSTRUMENTS

2015 No. 541

SOCIAL CARE, ENGLAND
CHILDREN AND YOUNG PERSONS, ENGLAND

The Children's Homes (England) Regulations 2015

Made - - - -	*4th March 2015*
Laid before Parliament	*6th March 2015*
Coming into force - -	*1st April 2015*

The Secretary of State, having consulted such persons as the Secretary of State considers appropriate [F1], makes these Regulations in exercise of the powers conferred by section 14A of the Interpretation Act 1978 [F2] and sections 1(4A), 22(1), (1A), (2)(a) to (d), (f) to (j), (5), (7)(a) to (h), (j), 34(1), 35(1) and 118(5) to (7) of the Care Standards Act 2000 [F3].

F1 See section 22(9) of the Care Standards Act 2000 (c.14) for the requirement to consult.

F2 1978 c.30. Section 14A of the Interpretation Act 1978 was inserted by section 59 of the Enterprise and Regulatory Reform Act 2013 (c.24).

F3 The powers are conferred upon the "appropriate Minister" who is defined in section 121(1) of the Care Standards Act 2000, in relation to England, as the Secretary of State. See section 121(1) of the Care Standards Act 2000 for the definitions of "prescribed" and "regulations". Section 1(4A) of the Care Standards Act 2000 was inserted by section 95 of, and paragraph 2(3) of Schedule 5 to, the Health and Social Care Act 2008 (c.14). Section 22(1) of the Care Standards Act 2000 was amended by section 103(1) of the Children and Families Act 2014 (c.6, "the C&FA 2014"). Section 22(1A) of the Care Standards Act 2000 was inserted by section 103(2) of the C&FA 2014.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Children's Homes (England) Regulations 2015 and come into force on 1st April 2015.

(2) These Regulations apply—

(a) only to children's homes in England;

(b) to a person aged 18 or over, as they apply to children, if the person—

(i) is accommodated in a children's home; and

(ii) is not employed in, or in relation to, the home.

Interpretation

2.—(1) In these Regulations—

"behaviour management policy" has the meaning given in regulation 35(1);

"care plan" has the meaning given in the Care Planning, Placement and Case Review (England) Regulations 2010 [F4];

"care role" means a role in which the work consists, or consisted, mainly or solely of providing care for children or adults;

"case records" means the records maintained under regulation 36 about a child;

"child protection enquiry" means any enquiry carried out by a local authority in the exercise of any of their functions conferred by or under the Children Act 1989 [F5] relating to the protection of children;

"child protection policies" means the children's home's policies for safeguarding children (see regulation 34(1)) and preventing bullying (see regulation 34(3)) and the missing child policy (see regulation 34(4));

"childcare" has the meaning given in section 18 of the Childcare Act 2006 [F6];

"children's guide" means a document produced by the registered person that explains, in a form appropriate to the age, needs and understanding of children—

(a) what each child can expect of and from the home's care;

(b) the support to which each child is entitled;

(c) how to make a complaint about the home or someone in it; and

(d) how to access advocacy support;

"EHC plan" has the meaning given in section 37(2) (education, health and care plans) of the Children and Families Act 2014;

"general medical practitioner" means a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council under section 34C of the Medical Act 1983 [F7];

"HMCI" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

"health", in relation to a child, includes that child's emotional, mental and physical health;

"independent person" has the meaning given in regulation 43(1);

"independent reviewing officer" means a person appointed under section 25A of the Children Act 1989 [F8][F9]or section 99 of the Social Services and Well-being (Wales) Act 2014];

"organisation" means a body corporate or an unincorporated association other than a partnership (but see paragraph (2)(d));

"placement plan" means—

(a) in relation to a child who is looked after by a local authority—

(i) the plan prepared under regulation 9 of the Care Planning, Placement and Case Review (England) Regulations 2010; or

(ii) the child's detention placement plan prepared under regulation 47C(2) of those Regulations [F10];

(b) in relation to a child who is not looked after by a local authority—

(i) the plan prepared under regulations 4 and 5 of the Arrangements for Placement of Children by Voluntary Organisations and Others (England) Regulations 2011 [F11]; or

(ii) the plan prepared by the registered person under regulation 18(4);

"placing authority"—

(a) if the child is looked after by a local authority—

(i) and the child is not a youth justice child, means the local authority that looks after the child;

(ii) and the child is a youth justice child, means the local authority that looks after that youth justice child and the youth offending team with responsibility for that youth justice child;

(b) if the child is not looked after by a local authority—

(i) and the child is being provided with accommodation by a voluntary organisation, means that voluntary organisation;

(ii) and the child is accommodated in a qualifying school under arrangements made by a local authority, means that local authority;

(iii) and the child is a youth justice child, means the youth offending team with responsibility for that youth justice child;

(iv) in cases not falling within sub-paragraphs (i), (ii) or (iii), means the child's parent;

(c) does not include a parent of a child who is not looked after by a local authority in the following provisions—

(i) regulation 5(c);

(ii) regulation 16(2)(d);

(iii) regulation 18(9)(a);

(iv) regulation 34(2)(b) and (c);

(v) regulation 36(5)(b)(ii);

(vi) regulation 44(7)(c);

(vii) regulation 45(5);

(viii) paragraphs 19 and 20 of Schedule 3;

"qualifying school" means a school which is a children's home within the meaning of section 1(6) of the Care Standards Act 2000;

"registered dental practitioner" means a person registered in the dentists register under section 14 of the Dentists Act 1984 [F12];

"registered manager" means a person who is registered under Part 2 of the Care Standards Act 2000 as the manager of the home;

"registered person" means the registered provider or the registered manager of the home;

"registered provider" means the person who is registered under Part 2 of the Care Standards Act 2000 as the person carrying on the home;

"relevant person" means any person, body or organisation that the registered person considers to be relevant in relation to the care, protection or safeguarding of a particular child in all the circumstances;

"relevant plans", in relation to a child, means—

(a) any placement plan for the child;

(b) any care plan for the child;

(c) any EHC plan for the child;

(d) any statement of special educational needs for the child; and

(e) if the child is a youth justice child—

(i) any detention placement plan for the child (under regulation 47C(2) of the Care Planning, Placement and Case Review (England) Regulations 2010); and

(ii) any other plan or plans prepared by the child's placing authority in relation to the remand or sentencing of the child;

"responsible individual" means an individual who—

(a) is a director, manager, secretary or other officer of an organisation which is the registered provider; and

(b) is nominated by that organisation for the purpose of supervising the management of the home on behalf of the organisation;

"restraint" means using force or restricting liberty of movement;

"secure children's home" means a children's home provided for the purpose of restricting liberty and approved for that purpose in accordance with regulation 3 of the Children (Secure Accommodation) Regulations 1991 **F13**;

"short breaks" has the meaning given in regulation 52;

"special educational needs" has the meaning given by section 20 of the Children and Families Act 2014;

"statement of purpose" means the statement compiled in accordance with regulation 16;

"statement of special educational needs" means a statement of special educational needs maintained in relation to the child under section 324 of the Education Act 1996 **F14**;

"youth justice child" means a child who is—

(a) subject to a detention order within the meaning of section 562(1A)(a) of the Education Act 1996 **F15** or remanded under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 **F16**; and

(b) detained in or remanded to a secure children's home.

(2) In these Regulations—

(a) unless the context indicates otherwise, references to a child or to children are to a child or to children accommodated in the children's home;

(b) references to a child who is looked after by a local authority have the meaning given by section 22 of the Children Act 1989 **F17**;

(c) references to employing a person include—

(i) employing a person, whether or not for payment, and whether under a contract of service or a contract for services; and

(ii) allowing a person to work as a volunteer,

and references to an employee, a person being employed, staff or a person working in the home are to be construed accordingly;

(d) references to a home are to be construed as references to a children's home;

(e) references to a partnership **F18** do not include a limited liability partnership **F19**.

F4 S.I. 2010/959, as amended by: S.I. 2011/581; 2012/1479; 2013/235; 2013/706; 2013/984; 2013/3239; 2014/852; 2014/1556; 2014/1917 and 2014/2103.
F5 1989 c.41.
F6 2006 c.21. Section 18 of the Childcare Act 2006 was amended by S.I. 2010/813 and paragraph 19 of Schedule 1 to the Children and Young Persons Act 2008 (c.23, "the CYPA 2008").
F7 1983 c.54. Section 34C of the Medical Act 1983 was inserted by paragraph 10 of Schedule 1 to S.I. 2010/234.
F8 Section 25A of the Children Act 1989 was inserted by section 10 of the CYPA 2008.
F9 Words in reg. 2(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) (Secondary Legislation) Regulations 2016 (S.I. 2016/211), reg. 1(2), **Sch. 3 para. 182**
F10 Regulation 47C of S.I. 2010/959 was inserted by S.I. 2013/706.
F11 S.I. 2011/582.
F12 1984 c.24. Section 14 of the Dentists Act 1984 was substituted by article 6 of S.I. 2005/2011 and amended by regulation 111 of S.I. 2007/3101.
F13 S.I. 1991/1505. Regulation 3 of S.I. 1991/1505 was amended by S.I. 1995/1398 and revoked in relation to Wales by S.I. 2006/2986.
F14 1996 c.56. Section 324 of the Education Act 1996 was amended by: section 140(1) of, and paragraph 77 of Schedule 30 to, the School Standards and Framework Act 1998 (c.31); section 9 of the Special Educational Needs and Disability Act 2001 (c.10); paragraph 43 of Schedule 21 to the Education Act 2002 (c.32) and paragraph 7 of Schedule 2 to S.I. 2010/1158.
F15 Subsection (1A) of the Education Act 1996 was inserted by section 49 of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22, "the ASCLA 2009").
F16 2012 c.10 ("the LASPOA 2012").
F17 Section 22 of the Children Act 1989 was amended by: section 2 of the Children (Leaving Care) Act 2000 (c.35); paragraph 19 of Schedule 5 to the Local Government Act 2000 (c.22); section 116 of the Adoption and Children Act 2002 (c.38, "the ACA 2002"); section 52 of the Children Act 2004 (c.31, "the CA 2004"); paragraph 6(a) to (c) of Schedule 3 to the CYPA 2008 and section 99 of the C&FA 2014.
F18 "Partnership" is defined in section 1 of the Partnership Act 1890 (c.39). Section 1 was amended by: Part 10 of Schedule 1 to the Statute Law (Repeals) Act 1998 (c.43) and by paragraph 2 of Schedule 1 to S.I. 2009/1941.
F19 A limited liability partnership is a body corporate pursuant to section 1 of the Limited Liability Partnerships Act 2000 (c.12).

Excepted establishments

3.—(1) For the purposes of the Care Standards Act 2000, establishments of the following descriptions are excepted from being a children's home—

(a) an institution within the further education sector, as defined by section 91(3) of the Further and Higher Education Act 1992 [F20];

(b) a 16 to 19 Academy, as defined by section 1B of the Academies Act 2010 [F21];

(c) an establishment—

(i) that would (apart from this sub-paragraph) be a home merely because it provides accommodation for children for the purposes of a holiday, or for cultural, educational, recreational or sporting activities; and

(ii) at which accommodation for any one child is not provided for those purposes for more than 27 days in any twelve month period;

(d) premises—